



Oregon

Theodore R. Kulongoski, Governor

Water Resources Department

North Mall Office Building
725 Summer Street NE, Suite A
Salem, OR 97301-1271
503-986-0900
FAX 503-986-0904

CFRI-HWKD MIDDLE ZENA LLC
ATTENTION: WILLIAM HILL
PO BOX 3989
NAPA, CA 94558

June 3, 2011

Reference: File S-87342

Dear Applicant:

**THIS IS NOT A PERMIT AND IS
SUBJECT TO CHANGE AT THE NEXT PHASE OF PROCESSING.**

This letter is to inform you of the preliminary analysis of your water-use permit application and to describe your options. In determining whether an application may be approved, the Department must consider the factors listed below, all of which must be favorable to the proposed use if it is to be allowed. Based on the information you have supplied, the Water Resources Department has made the following preliminary determinations:

Initial Review Determinations:

1. The application proposed the use of 0.245 cubic foot per second (CFS) of water, being 0.223 CFS for irrigation of 98.86 acres March 1 through October 31 and 0.022 CFS for year-round pond maintenance, from an unnamed stream, tributary to Spring Valley Creek.

The application also proposed the use of 45.83 acre-feet (AF) of water, being 8.0 AF from Middle Zena (Rice) Reservoir (constructed under Permit R-8132) for irrigation of 98.86 acres, and a total of 37.83 AF for supplemental irrigation of 98.86 acres, being 13.10 AF from Zena East (Bethel Hills) Reservoir (constructed under Permit R-14053), 2.21 AF from Zena West Reservoir 1 (1A and 1B - constructed under Permit R-5384), 8.70 AF from Zena West Reservoir 2 (constructed under Permit R-5384, enlarged under Permit R-14144), 1.18 AF from Zena West Reservoir 3 (constructed under Permit R-5384), 9.93 AF from Zena West Reservoir 4 (constructed under Permit R-5384, enlarged under Permit R-14145), 1.71 AF from Zena West Reservoir 5 (constructed under Permit R-14146), and 1.0 AF from Zena West Reservoir 6 (constructed under Permit R-14147).

An Affidavit of Cancellation of Certificate 28372 was submitted noting that associated Certificate 58090, which authorizes the use of stored water in Middle Zena (Rice) Reservoir for supplemental irrigation, would effectively be cancelled as well, because a supplemental right cannot stand alone without an underlying primary right.

2. On March 2, 2011, the Department received a request from Eric Urstadt for withdrawal of Applications R-86140, R-86141, and R-86142, which proposed to enlarge Zena Heights Reservoir #1, Zena Heights Reservoir #2, and Zena Heights Reservoir #4, respectively. On April 29, 2011, the Department issued an Order in the matter of withdrawal of Application R-86140. On May 27, 2011, the Department cancelled Permit R-14144 (Application R-86141) and Permit R-14145 (Application R-86142).

3. The proposed use is not prohibited by law or rule except where otherwise noted below.
4. The use of water from an unnamed stream, tributary to Spring Valley Creek, for irrigation and pond maintenance is allowable under the Willamette Basin Program.
5. Surface water from the unnamed stream, tributary to Spring Valley Creek, is available in the amount and for the full period requested.
6. The appropriation of water stored in Middle Zena (Rice) Reservoir for irrigation is allowable under the Willamette Basin Program.
7. Middle Zena (Rice) Reservoir was constructed under Permit R-8132 for irrigation and livestock. Because there is no existing secondary permit for the lands to be irrigated, 8.0 AF of water stored in Middle Zena (Rice) Reservoir may be authorized under this application for irrigation of 98.86 acres, only if Certificates 28372 and 58090 are cancelled concurrently with any permit issued for this application.
8. Stored water in the amount of 8.0 AF from Middle Zena (Rice) Reservoir is determined to be available for further appropriation from water legally stored under Permit R-8132, provided Certificates 28372 and 58090 are cancelled concurrently with any permit issued for this application.
9. The appropriation of water stored in Zena East (Bethel Hills) Reservoir, Zena West Reservoir 1 (1A and 1B), Zena West Reservoir 2, Zena West Reservoir 3, Zena West Reservoir 4, Zena West Reservoir 5, and Zena West Reservoir 6 for supplemental irrigation is allowable under the Willamette Basin Program.
10. Zena East (Bethel Hills) Reservoir was constructed under Permit R-14053. Permit S-54123 allows the appropriation of 30.0 AF of water stored in Zena East (Bethel Hills) Reservoir, the total authorized capacity of the reservoir. Therefore, the appropriation of 13.10 AF for supplemental irrigation is not allowable under this application.
11. Zena West Reservoir 1 (1A and 1B) was constructed under Permit R-5384. Certificate 39304 allows the appropriation of 2.5 AF of water stored in Zena West Reservoir 1, the total authorized capacity of the reservoir. Therefore, the appropriation of 2.21 AF for supplemental irrigation is not allowable under this application.
12. Zena West Reservoir 2 was constructed under Permit R-5384. Certificate 39304 allows the appropriation of 5.0 AF of water stored in Zena West Reservoir 2, the total authorized capacity of the reservoir. Therefore, the appropriation of 8.70 AF for supplemental irrigation is not allowable under this application.
13. Zena West Reservoir 3 was constructed under Permit R-5384 for livestock and fish. Therefore, the appropriation of 1.18 AF for supplemental irrigation is not allowable under this application.
14. Zena West Reservoir 4 was constructed under Permit R-5384. Certificate 39304 allows the appropriation 3.0 AF of water stored in Zena West Reservoir 2, the total authorized capacity of the reservoir. Therefore, the appropriation of 9.93 AF for supplemental irrigation is not allowable under this application.

15. Zena West Reservoir 5 was constructed under Permit R-14146. Application S-86145 allows the appropriation of 2.0 AF of water stored in Zena West Reservoir 5, the total authorized capacity of the reservoir. Therefore, the appropriation of 1.71 AF for supplemental irrigation is not allowable under this application.
16. Zena West Reservoir 6 was constructed under Permit R-14147. Application S-86145 allows the appropriation of 1.0 AF of water stored in Zena West Reservoir 6, the total authorized capacity of the reservoir. Therefore, the appropriation of 1.0 AF for supplemental irrigation is not allowable under this application.
17. Stored water in the amount of 37.83 AF is not available from Zena East (Bethel Hills) Reservoir, Zena West Reservoir 1 (1A and 1B), Zena West Reservoir 2, Zena West Reservoir 3, Zena West Reservoir 4, Zena West Reservoir 5, and Zena West Reservoir 6 for supplemental irrigation as the reservoirs have already been fully appropriated under secondary water rights or pending applications.

Summary of Initial Determinations

The use of 0.245 CFS, being 0.223 CFS for irrigation of 98.86 acres and 0.022 CFS for pond maintenance, further limited to no more than 0.025 CFS for Zena West Reservoir 1, 0.05 CFS for Zena West Reservoir 2, 0.03 CFS for Zena West Reservoir 4, 0.02 CFS for Zena West Reservoir 5, and 0.01 CFS for Zena West Reservoir 6, is allowable from March 1 through October 31 for irrigation, and for year-round pond maintenance.

The appropriation of 8.0 AF from Middle Zena (Rice) Reservoir for irrigation of 98.86 acres is allowable from March 1 through October 31, and Certificates 28372 and 58090 are cancelled concurrently with any permit issued for this application.

The appropriation of 37.83 AF, being 13.10 AF from Zena East (Bethel Hills) Reservoir, 2.21 AF from Zena West Reservoir 1 (1A and 1B), 8.70 AF from Zena West Reservoir 2, 1.18 AF from Zena West Reservoir 3, 9.93 AF from Zena West Reservoir 4, 1.71 AF from Zena West Reservoir 5, and 1.0 AF from Zena West Reservoir 6, is not allowable.

Because of the Department's determination, your application can be moved to the next phase of the water-rights application review process, where public interest factors will be evaluated. However, due to # 10, 11, 12, 13, 14, 15, 16, and 17 above, the application will likely be limited accordingly.

Please reference the application number when sending any correspondence regarding the conclusions of this initial review. Comments received within the comment period will be evaluated at the next phase of the process.

To Proceed With Your Application:

If you choose to proceed with your application, you do not have to notify the Department. Your application will automatically be placed on the Department's Public Notice to allow others the opportunity to comment. After the comment period the Department will complete a public interest review and issue a Proposed Final Order.

Withdrawal Refunds:

If you choose not to proceed, you may withdraw your application and receive a refund (minus a \$200 processing charge per application). To accomplish this you must notify the Department in writing by **Friday, Jun 17, 2011**. For your convenience you may use the enclosed "STOP PROCESSING" form.

If A Permit Is Issued It Will Likely Include The Following Conditions:

1. Measurement, recording and reporting conditions:
 - A. Before water use may begin under this permit, the permittee shall install a totalizing flow meter or other suitable measuring device as approved by the Director at each point of diversion. The permittee shall maintain the meter or measuring device in good working order.
 - B. The permittee shall keep a complete record of the amount of water diverted each month, and shall submit a report which includes the recorded report water-use measurements to the Department annually or more frequently as may be required by the Director. Further, the Director may require the permittee to report general water-use information, including the place and nature of use of water under the permit.
 - C. The permittee shall allow the watermaster access to the meter or measuring device; provided however, where any meter or measuring device is located within a private structure, the watermaster shall request access upon reasonable notice.
 - D. The Director may provide an opportunity for the permittee to submit alternative measuring and reporting procedures for review and approval.
2. You may be required to install fish screens at the point of diversion to meet Oregon Department of Fish and Wildlife specifications for adequate protection of aquatic life.
3. Irrigation allowed under this permit shall be by drip irrigation or by an equally efficient method.

This initial review does not attempt to address various public interest issues such as sensitive, threatened, or endangered fish species. These issues will be addressed as the Department reviews comments from the public and other agencies, and prepares a Proposed Final Order. You should be aware that, if significant public interest issues are found to exist, such a finding could have an impact on the eventual outcome of your application.

The water source identified in your application may be affected by an Agricultural Water Quality Management Area Plan. These plans are developed by the Oregon Department of Agriculture (ODA) with the cooperation of local landowners and other interested stakeholders, and help to ensure that current and new appropriations of water are done in a way that does not adversely harm the environment. You are encouraged to explore ODA's Water Quality Program web site at http://www.oregon.gov/ODA/NRD/water_agplans.shtml to learn more about the plans and how they may affect your proposed water use.

If you have any questions:

Feel free to call me at 503-986-0816 if you have any questions regarding the contents of this letter or your application. Please have your application number available if you call. General questions about water rights and water use permits should be directed to our customer service staff at 503-986-0801. When corresponding by mail, please use this address: Kerry Kavanagh, Oregon Water Resources Department, 725 Summer St NE Ste A, Salem OR 97301-1266. Our fax number is 503-986-0901.

Sincerely,

A handwritten signature in black ink that reads "K Kavanagh". The signature is fluid and cursive, with a long horizontal stroke at the end.

Kerry Kavanagh
Water Right Application Caseworker

enclosures: Application Process Description and Stop Processing Request Form

S-87342, WAB 2-182 , POU 2-182
GW

APPLICATION FACT SHEET

Application File Number: S-87342

Applicant: CFRI-HWKD MIDDLE ZENA LLC; ATTENTION: WILLIAM HILL

County: Polk

Watermaster: 16

Priority Date: November 19, 2008

Source: UNNAMED STREAM; ZENA EAST (BETHEL HILLS) RESERVOIR (CONSTRUCTED UNDER PERMIT R-14053); MIDDLE ZENA (RICE) RESERVOIR (CONSTRUCTED UNDER PERMIT R-8132); ZENA WEST RESERVOIR 1 (1A AND 1B - CONSTRUCTED UNDER PERMIT R-5384); ZENA WEST RESERVOIR 2 (CONSTRUCTED UNDER PERMIT R-5384, ENLARGED UNDER PERMIT R-14144); ZENA WEST RESERVOIR 3 (CONSTRUCTED UNDER PERMIT R-5384); ZENA WEST RESERVOIR 4 (CONSTRUCTED UNDER PERMIT R-5384, ENLARGED UNDER PERMIT R-14145); ZENA WEST RESERVOIR 5 (CONSTRUCTED UNDER PERMIT R-14146); ZENA WEST RESERVOIR 6 (CONSTRUCTED UNDER PERMIT R-14147), TRIBUTARIES OF SPRING VALLEY CREEK

Use: POND MAINTENANCE; IRRIGATION OF 98.86 ACRES; SUPPLEMENTAL IRRIGATION OF 98.86 ACRES

Quantity:

0.245 CUBIC FOOT PER SECOND (CFS), BEING 0.223 CFS FOR IRRIGATION OF 98.86 ACRES AND 0.022 CFS FOR POND MAINTENANCE, FURTHER LIMITED TO NO MORE THAN 0.025 CFS FOR ZENA WEST RESERVOIR 1, 0.05 CFS FOR ZENA WEST RESERVOIR 2, 0.03 CFS FOR ZENA WEST RESERVOIR 4, 0.02 CFS FOR ZENA WEST RESERVOIR 5, AND 0.01 CFS FOR ZENA WEST RESERVOIR 6

45.83 ACRE FEET (AF), BEING 8.0 AF FROM MIDDLE ZENA (RICE) RESERVOIR (CONSTRUCTED UNDER PERMIT R-8132) FOR IRRIGATION OF 98.86 ACRES AND A TOTAL OF 37.83 AF, 13.10 AF FROM ZENA EAST (BETHEL HILLS) RESERVOIR (CONSTRUCTED UNDER PERMIT R-14053), 2.21 AF FROM ZENA WEST RESERVOIR 1 (1A AND 1B - CONSTRUCTED UNDER PERMIT R-5384), 8.70 AF FROM ZENA WEST RESERVOIR 2 (CONSTRUCTED UNDER PERMIT R-5384, ENLARGED UNDER PERMIT R-14144), 1.18 AF FROM ZENA WEST RESERVOIR 3 (CONSTRUCTED UNDER PERMIT R-5384), 9.93 AF FROM ZENA WEST RESERVOIR 4 (CONSTRUCTED UNDER PERMIT R-5384, ENLARGED UNDER PERMIT R-14145), 1.71 AF FROM ZENA WEST RESERVOIR 5 (CONSTRUCTED UNDER PERMIT R-14146), 1.0 AF FROM ZENA WEST RESERVOIR 6 (CONSTRUCTED UNDER PERMIT R-14147) FOR SUPPLEMENTAL IRRIGATION OF 98.86 ACRES.

Basin Name & Number: Willamette, #2

Stream Index Reference: Volume 17 SPRING VALLEY CR & MISC

Points of Diversion Locations:

UNNAMED STREAM - SWSE, SECTION 23, T6S, R4W, W.M.; 4 FEET NORTH AND 178 FEET EAST FROM S1/4 CORNER, SECTION 23

ZENA EAST (BETHEL HILLS) RESERVOIR - SWSE, SECTION 23, T6S, R4W, W.M.; 680 FEET NORTH AND 1368 FEET WEST FROM SE CORNER, SECTION 23

MIDDLE ZENA RESERVOIR - SWSE, SECTION 23, T6S, R4W, W.M.; 333 FEET NORTH AND 184 FEET EAST FROM S1/4 CORNER, SECTION 23

ZENA WEST RESERVOIR 1A - NWSW, SECTION 23, T6S, R4W, W.M.; 1530 FEET NORTH AND 180 FEET EAST FROM SW CORNER, SECTION 23

ZENA WEST RESERVOIR 1B - NWSW, SECTION 23, T6S, R4W, W.M.; 1390 FEET NORTH AND 350 FEET EAST FROM SW CORNER, SECTION 23

ZENA WEST RESERVOIR 2 - SWSW, SECTION 23, T6S, R4W, W.M.; 550 FEET NORTH AND 790 FEET EAST FROM SW CORNER, SECTION 23

ZENA WEST RESERVOIR 3 - SWSW, SECTION 23, T6S, R4W, W.M.; 1050 FEET NORTH AND 650 FEET EAST FROM SW CORNER, SECTION 23

ZENA WEST RESERVOIR 4 - SWSW, SECTION 23, T6S, R4W, W.M.; 1260 FEET NORTH AND 560 FEET EAST FROM SW CORNER, SECTION 23

ZENA WEST RESERVOIR 5 - SESW, SECTION 23, T6S, R4W, W.M.; 920 FEET NORTH AND 2530 FEET EAST FROM SW CORNER, SECTION 23

ZENA WEST RESERVOIR 6 - NESW, SECTION 23, T6S, R4W, W.M.; 1920 FEET NORTH AND 2260 FEET EAST FROM SW CORNER, SECTION 23

Place of Use:

NE $\frac{1}{4}$ SW $\frac{1}{4}$ 3.94 ACRES AND POND MAINTENANCE
NW $\frac{1}{4}$ SW $\frac{1}{4}$ POND MAINTENANCE
SW $\frac{1}{4}$ SW $\frac{1}{4}$ POND MAINTENANCE
SE $\frac{1}{4}$ SW $\frac{1}{4}$ POND MAINTENANCE
NE $\frac{1}{4}$ SE $\frac{1}{4}$ 23.64 ACRES
NW $\frac{1}{4}$ SE $\frac{1}{4}$ 40.38 ACRES
SW $\frac{1}{4}$ SE $\frac{1}{4}$ 30.46 ACRES AND POND MAINTENANCE
SE $\frac{1}{4}$ SE $\frac{1}{4}$ 0.44 ACRE AND POND MAINTENANCE
SECTION 23
TOWNSHIP 6 SOUTH, RANGE 4 WEST, W.M.

14 DAY STOP PROCESSING DEADLINE DATE: Friday, June 17, 2011

PUBLIC NOTICE DATE: Tuesday, June 7, 2011

30 DAY COMMENT DEADLINE DATE: Thursday, July 7, 2011

Mailing List for IR Copies

Application #S-87342

IR Date: June 3, 2011

Original mailed to applicant:

CFRI-HWKD MIDDLE ZENA LLC
ATTENTION: WILLIAM HILL
PO BOX 3989
NAPA, CA 94558

Copies sent to:

1. WRD - File # S-87342
2. WRD - Water Availability: Ken Stahr

VIA EMAIL

3. WRD - Watermaster # 16
4. ODFW: Karen Hans
5. DEQ: Nancy Gramlich

IR, Map, and Fact Sheet Copies sent to:

6. Department of Agriculture

Affected Landowners (include "Notice of Initial Review--Affected Landowner"):

Copies sent to Other Interested Persons (CWRE, Agent, Well Driller, Commenter, etc.)

7. Eric Urstadt, CWRE #385
Stuntzner Engineering & Forestry, LLC, 2137 19th Avenue, Forest Grove OR 97116

<p>Copies Mailed By: _____ (SUPPORT STAFF) on: _____ (DATE)</p>

Caseworker: Kerry Kavanagh

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